

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15975 of the Order of Ahepa, as amended, pursuant to 11 DCMR 3108.1, for a special exeption under Section 2003 for a change of nonconforming use from offices of a nonprofit organization to the retail sale of bakery items and delicatessen on part of the first floor in an R-5-B District at premises 1901-09 Q Street, N.W. (Square 111, Lot 54).

HEARING DATE: July 20, 1994
DECISION DATE: July 20, 1994 (Bench Decision)

SUMMARY ORDER

At the public hearing, the applicant requested an amendment to the application based on a letter from Joseph F. Bottner, Zoning Administrator dated July 19, 1994. The letter as an alternative, set forth a special exception under Section 2003 as a change of nonconforming use from office for nonprofit corporation to the retail sale of bakery items and delicatessen if deemed to be a neighborhood facility. The Board approved the amendment and found the proposed use to be a neighborhood facility.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2B and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 2B. ANC 2B, which is automatically a party to this application, submitted a written statement of issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 2003. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring

property in accordance with the Zoning Regulations and Map. It is therefore ORDERED that this application is GRANTED, SUBJECT to the following CONDITIONS:


1. The hours of operation shall be between 7:00 a.m. and 9:00 p.m., Monday through Thursdays, and between 7:00 a.m. and 12:00 p.m. midnight, Friday through Sunday.
2. Trash shall be stored inside the building.
3. Trash pickup by a commercial contractor shall occur at least once daily except for Sundays and legal holidays.
4. The applicant shall police the area surrounding the subject site to ensure that it is kept free from refuse and debris on a daily basis.
5. The applicant shall not install any signage on the exterior of the structure.
6. The items for sale shall be limited to the sale of bakery items and hot and cold beverages.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0 (Craig Ellis, Laura M. Richards and Angel F. Clarens to grant; Maybelle Taylor Bennett not present, not voting, George Evans not voting having recused himself).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER:

AUG 2 1994

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PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15975Order/SS/bhs

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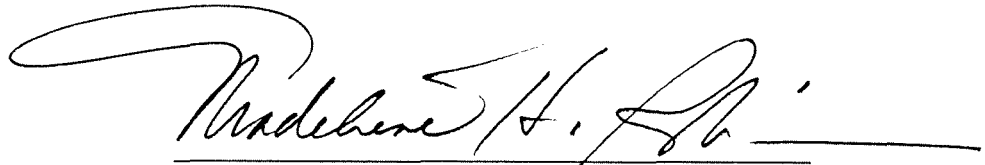
BZA APPLICATION NO. 15975

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 2 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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MADELIENE H. ROBINSON
Director

DATE: AUG 2 1994

15975Att/bhs